

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

3 UNITED STATES OF AMERICA, :  
4 vs. : DOCKET NUMBER  
5 ALLEN J. PENDERGRASS, : 1:17-CR-0224-AT-1  
6 DEFENDANT. : ATLANTA, GEORGIA  
 : NOVEMBER 20, 2018

TRANSCRIPT OF HEARING ON MOTION TO DISMISS FOR INEFFECTIVE  
ASSISTANCE OF COUNSEL (PART 3 OF 3) PROCEEDINGS  
BEFORE THE HONORABLE AMY TOTENBERG  
UNITED STATES DISTRICT JUDGE

APPEARANCES OF COUNSEL:

**FOR THE GOVERNMENT:**

JEFFREY A. BROWN  
TERESA M. STOLZE  
UNITED STATES ATTORNEY'S OFFICE

**FOR THE DEFENDANT:**

ROBERT H. CITRONBERG  
LAW OFFICE OF ROBERT CITRONBERG

**MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED  
TRANSCRIPT PRODUCED BY:**

**OFFICIAL COURT REPORTER:**

SHANNON R. WELCH, RMR, CRR  
2394 UNITED STATES COURTHOUSE  
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## PROCEEDINGS

(Atlanta, Fulton County, Georgia; November 20, 2018.)

3 THE COURT: Mr. Brown, Ms. Stolze, it seems as if  
4 counsel and Mr. Pendergrass have some irreconcilable problems  
5 in their relationship at this point that I don't know that I  
6 can address and mend. I think it is very unfortunate at this  
7 late point to be that because I'm sure that you are in full  
8 scale trial preparation.

9           But I don't think it would be wise to proceed with  
10 them not being able to communicate in trial and they see things  
11 quite differently. So I don't know that I have any alternative  
12 under the circumstances other than to appoint new counsel for  
13 Mr. Pendergrass.

(There was a brief pause in the proceedings.)

21 THE COURT: Clients sometimes want things to happen  
22 that can't happen as a matter of law for the lawyer. But,  
23 anyway, it is the obligation of the client also to attempt to  
24 communicate vigorously with the attorney and vice versa.

25 And I just want to hear from the Government in the

1 event that the Government maintains that I should not relieve  
2 counsel.

3 MR. BROWN: Your Honor, the Government obviously is  
4 not privy to your conversations with the defense counsel and  
5 the defendant. So in light of the filing, that would probably  
6 be the prudent course in this case. So I'm assuming that the  
7 trial will be continued.

8 We have a number of witnesses who were traveling from  
9 out of state. So we want to be able to notify them, Your  
10 Honor, today, if at all possible, and let them know.

11 THE COURT: All right. Well, I'm going to continue  
12 the trial. And I'm continuing it at the request of the  
13 defendant because of his request for a change of counsel. I  
14 mean, he's -- he requested a motion to -- filed his own motion  
15 to dismiss based on ineffective counsel. I'm going to deny the  
16 motion as to -- the motion to the extent it is requesting  
17 dismissal of this matter but grant the motion to the extent  
18 that it is complaining about counsel and only that I'm going to  
19 allow for substitution of counsel. And we'll appoint new  
20 counsel, and this will extend all time lines because I don't  
21 know how long new counsel will need to familiarize himself or  
22 herself with the case and be ready.

23 So we'll set a new date once we hear from counsel.  
24 I'll get him or her -- the issue is that we're in a holiday  
25 time, and I'm not sure counsel will be able to assess that

1 immediately. But I'll give counsel at least until the 20th of  
2 December -- and if she or he asks for time, I'll give them  
3 until the beginning of January -- to tell me how long they need  
4 as a whole.

5 All right. So the case is continued. And,  
6 Mr. Pendergrass, Mr. Citronberg will communicate with you  
7 though as to the selection of the new counsel. I will -- and  
8 he will turn over all of his information, documents, and I'm  
9 sure will be helpful to new counsel.

10 And if you have any issues with new counsel, then you  
11 need to really immediately address them. I don't want to be  
12 hearing at the last moment like now.

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Is there anything else we should address?

15 MR. BROWN: Not from the Government, Judge.

16 MR. CITRONBERG: No, Your Honor.

17 THE COURT: All right. Thank you very much.

18 COURTROOM SECURITY OFFICER: All rise. Court stands  
19 in recess.

20 **(The proceedings were thereby concluded at 3:45**  
21 **P.M.)**

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1 C E R T I F I C A T E

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3 UNITED STATES OF AMERICA

4 NORTHERN DISTRICT OF GEORGIA

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6 I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of

7 the United States District Court, for the Northern District of

8 Georgia, Atlanta Division, do hereby certify that the foregoing

9 4 pages constitute a true transcript of proceedings had before

10 the said Court, held in the City of Atlanta, Georgia, in the

11 matter therein stated.

12 In testimony whereof, I hereunto set my hand on this, the

13 19th day of January, 2019.

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17 *Shannon R. Welch*

18 SHANNON R. WELCH, RMR, CRR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT

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